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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/603,235	06/24/2003	James A. Lesch JR.	NWK1581	5006

7590 06/04/2004

Anthony Edw. J Campbell
6721 Northridge Drive
Dallas, TX 75214-3156

EXAMINER

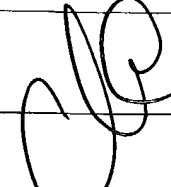
BRINSON, PATRICK F

ART UNIT	PAPER NUMBER
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3752

DATE MAILED: 06/04/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/603,235	Applicant(s) LESCH ET AL.	
	Examiner Patrick F. Brinson	Art Unit 3752	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date: ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date: ____ | 6) <input type="checkbox"/> Other: ____ |

DETAILED ACTION

Drawings

1. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the subject matter recited in claims 7 and 10 must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

Specification

2. The disclosure is objected to because of the following informalities: Claim 10 recites that the exterior of the sleeve is textured, however the specification does not provide support for a textured exterior.

Appropriate correction is required.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-6, 10, 12, 13, 16-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. 5,927,111 to **Nachbauer** in view of U.S. 3,818,949 to **Johnson**.

The patent to **Nachbauer** discloses a substantially rectangular plastic insulated pipe concealer comprising a pipe sleeve (10) having an interior surface and an exterior surface, a left side and right side, wherein left and right sides are pivotally connected. The pipe sleeve is adapted to close with the left side abutting the right side. An elongated insulation element (47), fig. 5, is placed within the interior of the pipe, having a channel disposed along the length of the insulation element in the direction of elongation adapted to receive pipe. The insulation is preferably a styrofoam material because of its ability to be shaped to virtually any configuration desired, as recited in claim 12. A flap (14) is attached to the exterior of the sleeve adapted for attachment to a wall. Though **Nachbauer** discloses the use of a lock for fastening the two sides together, it is also disclosed at col. 2, lines 64 and 65 that the two housing halves are adapted to accommodate a latch means. **Nachbauer** does not disclose a plurality of latches exterior of the concealer for fastening the sides. The patent to **Johnson** discloses a removable insulated pipe jacket having opposing sides

and insulating material (18) within each side. Exterior of each side are a plurality of latches (16, 14) that are adapted to fasten the opposing sides together. It would have been obvious to one having ordinary skill in the art at the time the invention was made to substitute for the fastening arrangement of **Nachbauer**, a plurality of latching means as taught by **Johnson** in order to provide an alternative means to the lock of fastening left and right sides of the concealer around the pipe and to provide a plurality of these latch means in order to secure the sides together along the length of the split of both halves. The patent to **Nachbauer** does not teach a plurality of flaps attached to the sleeve for attaching the sleeve to a wall, nor a hinged flap, nor does it disclose dimensions of the sleeve. At the time the invention was made, it would have been an obvious matter of design choice to a person of ordinary skill in the art to provide a plurality of hinged flaps and to form the sleeve with the particular recited dimensions because Applicant has not disclosed that these features provide an advantage, are used for a particular purpose, or solves a stated problem. One of ordinary skill in the art, furthermore, would have expected Applicant's invention to perform equally well with the flap (14) disclosed for mounting the sleeve to the wall and with the dimensions shown. Additionally, it would have been obvious to one having ordinary skill in the art at the time the invention was made to provide a plurality of hinged flaps, since it has been held that mere duplication of the essential working parts of a device involves only routine skill in the art.

Therefore, it would have been an obvious matter of design choice to modify the hinge and sleeve of **Nachbauer** to obtain the invention as specified in claims 1, 3, 4, 6 and 16-20.

As to the type of pipe utilized in the device, **Nachbauer** does not disclose it as being a refrigeration pipe, however, it has been held that a recitation with respect to the manner in which a claimed apparatus is intended to be employed does not differentiate the claimed apparatus from a prior art apparatus satisfying the claimed structural limitations.

4. Claims 7, 14 and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over **Nachbauer** in view of **Johnson** as applied to claim 1 above, and further in view of US 5,391,840 to **Hughes et al.**

The patent to **Nachbauer**, as modified, discloses the recited structure, as discussed in the preceding paragraph, but does not disclose a second sleeve attached to the first sleeve nor does it disclose a plurality of pipes received within the channel. The patent to **Hughes et al.** discloses an insulated sleeve into which a plurality of pipes is received. Each duct including first and second halves with insulation material therein. It is disclosed that each half is provided with connecting means (24 and 22) that allow for attaching of a plurality of the ducts together. Fig. 5 clearly discloses that it is old and known to provide

connection means for connecting more than one duct end to end. It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the sleeve of **Nachbauer**, as modified, to have connection means as suggested by **Hughes et al.**, in order to connect another sleeve with the first in order to accommodate a longer length of pipe, and to provide space within the channel to accommodate two to three pipes therein, also as taught by **Hughes et al.**

5. Claims 11 is rejected under 35 U.S.C. 103(a) as being unpatentable over **Nachbauer** in view of **Johnson** as applied to claim 1 above, and further in view of US 3,556,158 to **Schneider**.

The patent to **Nachbauer**, as modified, discloses the housing as being formed a plastic material, but does not disclose the sleeve as being formed of polyvinylchloride. The patent to **Schneider** discloses, fig. 2, an insulator for a pipe including two halves with insulating material (26) therein for accommodating a pipe. Col. 5, lines 21 and 22 disclose that the pipe sleeves (22) may be formed from polyvinylchloride. It would have been obvious to one having ordinary skill in the art at the time the invention was made to utilize polyvinylchloride, as suggested by **Schneider** as the plastic of the concealer device of **Nachbauer**, wherein it is known that polyvinylchloride is rigid

material capable of protecting both the insulation as well as the pipe therein against the outside environment.

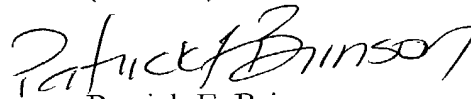
Conclusion

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The patents listed in the PTO form 892 are pertinent to Applicant's invention in disclosing jacketed, insulated pipe concealers, similar in function to Applicant's invention.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to **Patrick F. Brinson** whose telephone number is (703) 308-0111. The examiner can normally be reached on M-F 7:30-3:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, **Michael Y. Mar** can be reached on (703) 308-2087. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Patrick F. Brinson
Primary Examiner
Art Unit 3752

P. F. Brinson
May 25, 2004